

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CLARENCE Z. HOWARD,

Plaintiff,

v.

UNKNOWN NAMED CEO, et al.,

Defendant.

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No. 4:19-CV-2241-JMB

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's post-dismissal motion for leave of Court to file an amended complaint. Plaintiff has attached to the motion new Parts II and IV, which he would like to substitute for Parts II and IV of his original complaint. For the following reasons, plaintiff's motion will be granted.

Post-judgment motions for leave to amend the complaint are disfavored but may be granted if timely requested. That is, "leave to amend should be less freely available after a final order has been entered." *See U.S. ex rel. Roop v. Hypoguard USA, Inc.*, 559 F.3d 818, 823 (2009). "[W]e conclude that district courts in this circuit have considerable discretion to deny a post-judgment motion for leave to amend because such motions are disfavored, but may not ignore the Rule 15(a)(2) considerations that favor affording parties an opportunity to test their claims on the merits. . . ." *Id.* at 824. Here, plaintiff's case was dismissed without prejudice its earliest stage—pre-service initial review under 28 U.S.C. § 1915(e). Plaintiff moved for leave to amend two weeks after the Court entered its dismissal. Plaintiff has not changed the legal theory of his case; he has merely added factual information to his statement of the claim. For these reasons, the Court will grant plaintiff's motion for leave to amend.

Plaintiff's motion for leave to amend seeks to amend only Part II "Statement of Claim" and Part IV "Relief" of his original complaint. Plaintiff has attached to his motion new Parts II and

IV, each on their own pages. *See* ECF 15-1. Although typically the Court does not allow amendment by interlineation, to avoid confusion in the record, the Court will allow plaintiff to substitute his attached Parts II and IV for those parts of his original complaint. Specifically, the Court will order the Clerk of Court to substitute page 8 of the original complaint (ECF 1, page 8) with pages 1 through 3 of plaintiff's attachment (ECF No. 15-1, pages 1-3). The Clerk shall also substitute page 11 of plaintiff's original complaint (ECF No. 1, page 11) with page 4 of his attachment (ECF No. 15-1, page 4). The Clerk shall then refile this document with its substitutions as plaintiff's Amended Complaint under a new document number.

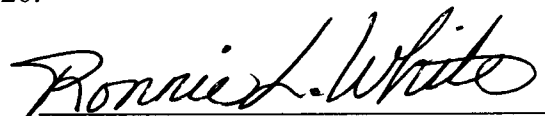
By separate order, the Court will conduct an initial review of plaintiff's amended complaint pursuant to 28 U.S.C. § 1915(e).

**IT IS HEREBY ORDERED** that plaintiff's motion for leave to amend his original complaint is **GRANTED**. [ECF No. 15]

**IT IS FURTHER ORDERED** that the Clerk of Court shall substitute page 8 of plaintiff's original complaint (ECF No. 1, "II Statement of Claim") with pages 1 through 3 of plaintiff's attachment (ECF No. 15-1, "II Statement of Claim"); and substitute page 11 of plaintiff's original complaint (ECF No. 1, "IV Relief") with page 4 of plaintiff's attachment (ECF No. 15-1, "IV Relief"). The Clerk of Court shall file this new document as plaintiff's Amended Complaint under a new document number.

**IT IS FURTHER ORDERED** that by separate order, the Court will conduct an initial review of plaintiff's Amended Complaint pursuant to 28 U.S.C. § 1915(e).

Dated this 20<sup>th</sup> day of February, 2020.



RONNIE L. WHITE  
UNITED STATES DISTRICT JUDGE